FILE COPY

No. 621

In the Supreme Court of the United States

OCTOBER TERM, 1931

UNITED STATES OF AMERICA, APPELLANT

v.

WILLIAM RANDOLPH SCHARTON

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

STATEMENT OF JURISDICTION

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STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, appellant submits herewith its statement showing the basis of this Court's jurisdiction in the above-entitled cause.

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the judgment here complained of is conferred by the Act of March 2, 1907, c. 2564, 34 Stat. 1246 (U. S. C., Title 18, Sec. 682), otherwise known as the Criminal Appeals Act, and by Section 238 of the Judicial Code as amended by the Act of February 13, 1925.

B

DATES OF JUDGMENT AND APPLICATION FOR APPEAL

The judgment of the District Court was entered November 20, 1931. (R. 9.)[1] The application for appeal was made December 17, 1931, and allowed the same day. (R. 10.) The case was docketed in this Court on January 5, 1932.

C

NATURE OF THE CASE

Appellee was indicted on August 18, 1931, in the United States District Court for the District of Massachusetts for attempting to defeat and evade his income taxes for the years 1926 and 1927 in the respective amounts of $10,708.03 and $13,972.58 (R. 1–8), under the provisions of Section 1114 (b) of the Revenue Act of 1926, c. 27, 44 Stat. 9, 116.

Under date of September 4, 1931, appellee filed a "Plea in Bar" praying that he be dismissed and discharged and that the indictment be quashed on the ground that the indictment charged that the offenses were committed on March 11, 1927, and April 16, 1928, respectively, which in each instance was more than three years next before the finding of the indictment. (R. 8–9.)

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[1] All references to the record are to the pages of the certified unprinted record prepared by the clerk of the District Court and on file with the clerk of this Court. The record has not yet been printed.

On November 20, 1931, the court held that the offenses charged did not involve the defrauding or attempting to defraud the United States or any agency thereof, that therefore the three-year statute of limitations and not the six-year period of limitations prescribed in Section 1110 (a) of the Revenue Act of 1926 (44 Stat. 114–115) applied, and accordingly entered an order sustaining the plea in bar and quashing the indictment. (R. 9.)

From the above order and judgment the Government has appealed to this Court. (R. 10–12.)

D

CASES SUSTAINING JURISDICTION

United States v. *Goldman*, 277 U. S. 229, 236–237.

United States v. *Barber*, 219 U. S. 72, 78.

United States v. *Oppenheimer*, 242 U. S. 85, 86.

United States v. *Harry Murdock*, decided November 23, 1931, No. 38, October Term, 1931.

Respectfully submitted.

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Solicitor General.

G. A. YOUNGQUIST,
Assistant Attorney General.

SEWALL KEY,
JOHN H. MCEVERS,
Special Assistants to the Attorney General.

JANUARY, 1932.

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